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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,346	03/12/2004	Eric H. Mansfield	1796031US2AP	9910
27542	7590	09/19/2006	EXAMINER	
SAND & SEBOLT AEGIS TOWER, SUITE 1100 4940 MUNSON STREET, NW CANTON, OH 44718-3615			NEWTON, JARED W	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,346	MANSFIELD ET AL.	
	Examiner	Art Unit	
	Jared W. Newton	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 15-17, 32-38 and 40-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-60 is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 10, 15-17, 32-38, 40, 42, 48 and 50 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 41, 43-47, 49 and 51-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/12/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>September 6, 2006</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This final rejection is in reply to the remarks filed June 13, 2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16 and 17 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In particular, claim 16 sets forth the limitation, "wherein the locked position of the lock prevents the base assembly from moving in a direction from the inner end of the rod toward the outer end of the rod" (see Claim 16, Lines 1-3). The specification does not teach, nor do the drawings show how the locked position of the lock prevents the base assembly from moving in the described direction. The specification recites, "Body 46 engages arms 68 to force lock member 50 into the locked position when body 46 is pulled in a direction from the inner end of rod 28 toward the outer end of rod 28" (see Page 9, Lines 6-8); the specification continues, "Opening 70 is sized to frictionally engage upper rod 28 when lock 44 is in the locked position to prevent base assembly 20 from moving in a direction from the inner end of rod 28 toward the outer end of rod

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28" (see Page 9, Lines 15-18). The above recitations do not detail the operation of the locking device so as to allow one of ordinary skill in the art to make, use, or understand said locking device. For example, one of ordinary skill in the art would not know how to construct said arms so as to enable them to force said lock into a locking position. Nor would one know how to construct the device so as to allow frictional force to overcome a pulling force, in order to prevent (emphasis added) the movement of the base assembly from the inner end of the rod to the outer end of the rod.

In regard to claim 17, the specification does not detail how the device enables the base assembly to move in a direction from the outer end of the rod toward the inner end of the rod when the lock is in the locked position.

In a telephone conversation with the Attorney for the Applicant on September 5, 2006, the Examiner explained his basis for rejecting the above claims under the Enablement Requirement. The Attorney explained the engagement between the pivot arms 68 and the body 46 (see FIG. 4); however, such an engagement is not detailed in the drawings and referenced with a reference character and enabling description in the specification so that one of ordinary skill in the art, when reading the application and viewing the drawings, would know how to construct a display hook having the claimed features. The claims should be canceled or the drawings and specification clarified to meet the enablement requirement. No new matter should be entered.

Claim Rejections - 35 USC § 102

Insomuch as understood in light of the 35 USC 112 rejections above, Claims 1, 2, 4, 5, 6, 9, 10, 15-17, 32, 33, 35-38, 40, 42, 48, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,474,300 to Entis.

In regard to claims 1 and 32, Entis discloses a display device comprising: a rod 10 having an inner end and an outer end; the inner end of the rod disposed near a support structure 2 (see FIG. 1); a base assembly 30 connected to the rod and slidable between a first locked position and a second unlocked position; the lock position of the base assembly adapted to prevent the rod from being removed from the support structure, by forming a closed rod, and preventing removal of the rod 10 through the loop members shown in Figure 1 that retain the rod to the support structure; said base assembly having a body; a lock comprising front wall 46, slot 48, leaf spring 32, and upward extending bend 36, said lock portions 32 and 36 movable relative to the base portion 30 between locked (see FIG. 3) and unlocked (see FIG. 2) positions; the lock having an opening slot disposed at the bottom of wall 46; a portion of the rod 14 being disposed in the opening of the lock; and the lock engaging the rod when the lock is in the locking position to lock the base assembly to the rod such that the rod cannot be removed from the support structure (see FIG. 2—the locking position is shown in phantom). Entis recites, “Bend 36 of leaf spring 32 serves as a locking element and is urged downwardly, by the inherent resiliency of the leaf spring 32, through slot 38 and into engagement with the front end of the upper bracket arm 18, when the slide 30 is in

its closed position against the front leg 14 [of rod 10], as shown in FIG. 3 and in broken lines in FIG. 2.” (See Column 2, Lines 58-64).

In regard to claim 2, said opening is non-circular (see FIG. 2).

In regard to claim 4, the opening shown by Entis (see FIG. 2) comprises opposite semi-circular shaped ends connected by upper and lower straight portions, wherein said semi-circular end portions have a diameter slightly larger than the diameter of the rod portion disposed in said opening (see FIG. 2).

In regard to claims 5 and 35, said lock pivots between locked and unlocked positions, as leaf spring 32 deflects (see FIG. 2).

In regard to claim 6, said lock pivots relative to said rod, as leaf spring pivots away from and towards said rod.

In regard to claim 9, it is possible to actuate to lock by some magnet.

In regard to claim 10, Entis teaches a Y-shaped hook 20 adapted to connect the rod 10 to the support structure 2 (see FIG. 3).

In regard to claims 15 and 40, Entis further shows said rod 10 as free of notches (see FIGS. 1-9).

In regard to claim 16, Entis shows that when said sliding base member 30 is in a locked positions, it is incapable of moving from said inner end of the rod toward the outer end of the rod (see FIG. 1, and FIG. 2 (in phantom)).

In regard to claim 17, Entis shows said base member, when in the locked position, as capable of moving from the outer end of said rod 10 toward the inner end of said rod (see FIG. 2).

In regard to claim 33, both the opening and the rod as disclosed by Entis have a cross-sectional shape, and at least some portion of the opening in the lock matches the cross sectional shape of the rod, or else the rod would not fit in the opening (see FIG. 2).

In regard to claim 36, the lock includes a first lock member 36 movable between locked and unlocked positions, and a second lock member 32; the second lock member locking the first lock member in its locked position (see FIG. 2).

In regard to claims 37 and 38, it is possible to actuate the lock and or the second lock member by some magnet.

In regard to claim 40, the rod 18 is free of notches (see FIGS. 1-3).

In regard to claim 42, the rod extends longitudinally between the inner end and the outer end and has a longitudinally extending outer surface, wherein the lock member 32,36,46,48 in the locked position lockably engages the rod only on the longitudinally extending outer surface thereof (see FIG. 3).

In regard to claim 48, the first position of the base assembly 30 is adjacent the inner end of the first rod, and the second position of the base assembly is distal the inner end of the first rod (see FIGS. 2 and 3).

In regard to claim 50, Entis discloses a display device comprising: a rod 12,18 having an inner end 16 and an outer end 14; the inner end of the rod adapted to be disposed adjacent the support structure when the display hook is connected to the support structure; a base assembly 30 including a body defining a through opening and a first lock member 46 defining a through opening 48 aligned with the through opening

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of the body; wherein the through opening of the body slidably receives the rod whereby the body is slidable along the rod between a first position (see FIG. 3) adapted to prevent the rod from being removed from the support structure and a second position (see FIG. 2) adapted to allow the rod to be removed from the support structure; wherein the rod is received within the through opening of the first lock member; wherein the first lock member is movable relative to the body between a locked position in which the first lock member lockably engages the rod end 14 to lock the body to the rod in the first position of the body and an unlocked position in which the body is slidable from the first position to the second position.

Claim Rejections - 35 USC § 103

Insomuch as understood in light of the 35 USC 112 rejections above, Claims 3, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,474,300 to Entis, alone.

Entis disclose a device comprising all of the limitations of claims 1 and 32, but does not disclose an oval shaped opening. The examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the opening as set forth above by Entis, of any shape, including an oval. See *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant. The

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inclusion of an oval-shaped opening in place of circular opening does not yield a surprising result, and would be an obvious variant to one of ordinary skill in the art.

Double Patenting

Claims 32, 34, 35, and 47 are provisionally objected to under 37 CFR 1.75 as being substantial duplicates of claims 1, 3, 5, and 41 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

Claims 7, 8, 41, 43-47, 49, and 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 54-60 are allowed.

Response to Arguments

In view of the Remarks and Amendments filed June 13, 2006, the Drawing Objections noted in the Office Action mailed April 7, 2006 are hereby withdrawn.

In view of the Amendments filed June 13, 2006, the Specification Objections set forth in the Office Action mailed April 7, 2006 are hereby withdrawn.

In view of the Amendments filed June 13, 2006, the Claim Objections set forth in the Office Action mailed April 7, 2006 are hereby withdrawn.

As advanced above, the 35 U.S.C. 112 Rejections of claims 16 and 17 set forth in the Office Action mailed June 13, 2006, are hereby upheld.

Applicant's arguments filed June 13, 2006, with respect to the Entis reference have been fully considered but they are not persuasive. Applicant's arguments begin on page 20 of the Remarks filed. Applicant recites, "Entis teaches a body 30 which defines an opening in which rod 18 is disposed in order to allow a sliding movement of body 20 [30] there along. At no time does body 30 lockingly engage the portion of the rod 18 within said opening. Instead, lock member 36, which does not define the opening, is the structure which provides locking engagement" (see pg. 23, ln. 9-13). As interpreted by the Examiner in the Office Action mailed April 7, 2006, and further stated herein, the Entis reference teaches a body 30 with an opening that receives the upper portion of a rod 18, and comprises a lock assembly that lockingly engages the rod, and its front upstanding leg portion 14. The body includes a lock assembly comprising various portions 46,48,32,36, any of which may be a first lock portion or a second lock portion. As interpreted by the Examiner, the opening of body member 30 terminates at the opening disposed at the bottom portion of portion 46 of the lock assembly. The Examiner asserts that as interpreted, the Entis reference meets the limitations of the rejected claims of the present application, because analogous thereto, the Entis

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reference comprises a rod, a base assembly carried by the rod, a lock carried by the base assembly, wherein said lock, when unlocked, allows the base assembly to slide along the rod, thereby providing a through which the rod may be removed from a support structure.

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant recites, "Entis teaches more of an end assembly than a base assembly as described in Applicant's invention" (see pg. 22, ln. 12-13). While the instant invention differs structurally from the Entis invention, the claims rejected above do not set forth limitations that the Entis invention does not include. The rejected claims do not include limitations defining how the present invention comprises an "end assembly" different from the "base assembly" disclosed by Entis, nor do they offer a requisite to allow one of ordinary skill in the art to distinguish between an "end assembly" and a "base assembly."

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). Upon amendment, Applicant changed the recitation of a "lock" to "the first lock member." As advanced above, the device to Entis discloses a lock assembly comprising various members, any of which may constitute a "first lock member".

In regard to claim 5, Applicant recites, "Entis fails to teach that the lock member which is movable relative to the body (as required by claim 1) and pivots between its locked and unlocked positions" (see pg. 23, ln. 15-17). In view of the rejections above and the preceding paragraph, lock members 32 and 36, which may or may not be considered "first lock members," are movable relative to the body by a pivotal motion cause by the key 50 (see FIG. 2). Thus, the claim 5 limitations are met.

In regard to claim 6, Applicant recites, "Entis fails to teach or suggest that the first lock member pivots with respect to the rod and that claim 6 is also independently allowable" (see pg. 23, ln. 20-21). As set forth in the preceding paragraph, the lock portions 32 and 36 pivot with respect to the body 30, and also pivot relative to the rod 18 (see FIG. 2).

In view of the filing of the supplemental Oath and Declaration dated June 13, 2006, the rejections based on US Patent Application Publication No. 2004/0026344 to Sedon et al. are hereby withdrawn. The Oath and Declaration is sufficient support under 37 CFR 1.131, to disqualify the commonly owned patent/published application as prior art.

The claims indicated as allowable above include limitations, which when interpreted broadly in view of the specification, are not anticipated by or obvious in view of the prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jared W. Newton
September 6, 2006
JWN



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